



LOOKING DOWN THE ROAD

Lowering the BAC, Saves Lives on our Highways

By William S. Aiken Jr.



I first learned of Assistant Speaker Felix Ortiz's bill to lower the BAC (Blood Alcohol Content) in July of 2013. The following month RID's founder, Doris Aiken held her last press conference to announce our support of the bill. Lowering the BAC in New York State was a long held ambition that Doris had fought decades for. She first learned about the science of BAC through Surgeon General C. Everett Koop at a NTHSA conference in 1982. She soon became a fierce advocate on the Surgeon General's behalf.

Unfortunately, she didn't live long enough to see .05 come to fruition. So I have made passing .05 a priority for RID in New York. I am actively working with .05 Saves Lives and other road safety advocates to pass .05 legislation across the nation.

Doris was ahead of her time, particularly on this issue. As more data became available from countries that passed a .05 BAC, the more apparent it's been proven her instincts were correct. So I have picked up and carried the torch for her legacy. Since the assistant speaker first introduced the bill, A3208/S5117, he has worked tirelessly to get his colleagues on board as well as educate the general public.

Back in March of this year, the pandemic shutdown stopped everyone at the Capital in their tracks. There were no exceptions. This



Felix Ortiz, (D)
Assistant Speaker
Assembly District 51,
Brooklyn, NY

massive disruption threw a roadblock on the progress RID had made with .05 in the legislative process. Amid his hectic schedule, the Assistant Speaker was gracious with his time to discuss his bill, speak about the challenges of lowering the BAC, why he wrote the bill and what the average person can do to get involved to make a difference.

1). First off, let me ask you about the issue that's on everyone's mind and literally affecting many countries around the world. How has the Corona virus shutdown impeded your ability to perform your duties as Assistant Speaker?

Due to technology there really has been little difference. It's changed the way I perform my duties as Assistant Speaker but hasn't impeded it.

2.) What adjustments has your office had to make comply with the new restrictions?

Like many other offices, some of my staff members have been working remotely during the pandemic to maintain social distancing requirements. Technology has allowed them to continue to support constituents and perform legislative duties.

3). You first introduced a bill to lower the legal BAC in 2013. Were you motivated by a personal tragedy to write this legislation or was it something else?

I introduced legislation to lower the legal BAC because I saw that we needed to do more to prevent senseless traffic accidents due to alcohol consumption. The current legal BAC level of .08 is not doing enough to deter drivers from operating a vehicle after drinking alcohol.

Reducing the legal BAC to .05 in New York will make our roads safer by reducing the number of impaired drivers. All New Yorkers deserve to feel safe traveling on our roadways.

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Looking Down The Road...

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4). You've gotten 14 of your Democrat colleagues in the Assembly to co-sponsor your bill, A3208 all of them are from districts in the New York City area. Drunken driving isn't a partisan issue. Republicans are prone to support legislation enhancing law enforcement measures. Democrats tend to be concerned with giving law enforcement too much power. How you explain the way A3208 has divided among Democrats and Republicans as well as split among upstate/ downstate legislators?

There are currently 16 co-sponsors on the bill

D'URSO, SIMON, ENGLEBRIGHT, COLTON, GOTTFRIED, PICHARDO, DAVILA, WILLIAMS, JAFFEE, M. G. MILLER, DICKENS, CRUZ, COOK, EPSTEIN, CRESPO, MOSLEY

The decision to support or oppose legislation is very personal and based on various factors; support or opposition of constituents, personal experience, geographic location, legality, financial impact, etc.... I can't explain the motivation behind other legislators' decisions.

I feel that A.3208 should be supported by all legislators. Reducing the acceptable BAC level to .05 will save lives. It's that simple and important. Drinking and driving are two activities that should never be done together.

5). What is your approach to winning over your other colleagues to your side?

I try to speak with each legislator personally to highlight the importance of reducing New York's legal BAC level to .05. I also make myself available to answer any questions or concerns hear any concerns they may have.

6). Our readers may be surprised to learn that your family has been in the restaurant and alcohol business for years. How did having that experience influence your thought process as you drafted A3208?

My early exposure to the importance of responsible alcohol consumption definitely influenced my thought process. My family members in the restaurant business understood that drinking and driving is a dangerous combination. The staff at their establishments were trained to limit the amount of alcohol serve to patrons who were driving.

It was instilled in me at an early age to drink responsibly and never drink and drive. I've carried those important lessons with me throughout my life and have passed them on to my children and grandchildren.

7). Eight other states, including New York have pending .05 legislation. Utah implemented its version of .05 in 2018. How optimistic are you that New York will become the next state to lower its BAC?

I'm hopeful, but I've learned nothing is guaranteed, especially in our current climate dealing with a pandemic.

I will continue to champion the passage of A.3208 with my colleagues and all New Yorkers. This bill will save lives - there is nothing more important than that.

8). What would you say to someone who would like to help A3208 become the law of the land? What can they do to get involved and make a difference?

I would tell them that there is a lot they can do. Their Assembly Member, Senator and Governor were elected by them to represent them.

Intoxicated driving can kill and injure innocent people and destroy families emotionally and financially. Let your Assembly Member, Senator and Governor know that you want to reduce the legal BAC in New York to .05. Request they support and pass A.3208 so we can prevent additional tragedies due to intoxicated driving in New York.

On that note, let me remind our readers how important it is that you speak to your representations on this issue. Every time you write, e-mail or call your elected officials at the Capital, your communication is documented in their call logs and tallied in their records. Our elected leaders pay close attention to the issues that are expressed by their constitutions. It matters that you voice your concerns.

If you live in New York State, you can access the contact information of your Senator and Assemblyman by visiting these websites:

Nysenate.gov

Assembly.gov

HOW THE VIRUS SHUTDOWN IMPACTS INTOXICATED AND IMPAIRED DRIVING

By Renee Barchitta

At first thought, one would think that impaired driving would be greatly reduced because of the shut downs, with businesses closing down, adults and children working and attending classes at home.

However, after looking into the way in which the lock down was carried out and continues, there is a concern that an increase in drinking, using marijuana and prescription medications, the impaired driving problems are exasperated. New York States' no bail reform and Executive Order off premises take-out and delivery only adds to the impaired driving problem.

Alcohol and Marijuana Deemed Essential

According to the National Governors Association, 42 states, as of April, enacted measures to close businesses deemed nonessential. Liquor stores in every state, except in Pennsylvania, have been regarded as essential businesses. Thirty-two states have explicitly carved out protections for liquor stores in their emergency directives. Marijuana/Cannabis suppliers are considered essential businesses in many states because of the need for access to the drug for therapeutic purposes.

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Officials and advocates believe these stores are an essential component of the broader health care system. George F. Koob, the Director of the National Institute on Alcohol Abuse and Alcoholism, a division of the U.S. National Institutes of Health stated “Abruptly limiting access to alcohol could lead to an increase in withdrawal among people with severe alcohol use disorder and add to the burden on the healthcare system.” Koob added that “countervailing factors, such as the tendency of people to turn to alcohol in order to “cope with duress,” should be considered as well.

<https://www.newsweek.com/marijuana-alcohol-covid-19-essential-businesses-1495600>

A definition of the word ESSENTIAL means “a thing that is absolutely necessary.” By making alcohol and marijuana essential businesses, our government condones, encourages, and declares drinking and using marijuana/cannabis products as “absolutely necessary,” at least as a way to cope with a virus and a shut down.

Asking the public to stay home and providing them with essential alcohol and marijuana stores can lead to drinking or using other drugs alone and to help with feelings of depression, stress, anxiety, loneliness, and anger. This can lead to feeling disconnected and depressed. If drinking or using other drugs alone continues to deal with stress, this can lead to alcohol dependency or drug addiction. Daily use and or addiction can lead to an increase in impaired driving. Many people do not believe that marijuana can impair their driving.

According to the (CDC) Center for Disease Control and Prevention, Marijuana users were about 25% more likely to be involved in a crash than drivers with no evidence of marijuana use.

https://www.cdc.gov/motorvehiclesafety/impaired_driving/impaired-drv_factsheet.html

Nielson Reports Alcohol Sales Increased

The belief that drinking alcohol is a good way to cope with the stress of the virus and the shutdown, “...but for some people, too much alcohol is making the ongoing health crisis worse.”

“There are data to indicate people are drinking more than usual,” said Dr. Mariann Piano, a substance abuse researcher. “And there’s no question that drinking too much every day leads to an increase in health risks.”

“Nielsen reports alcohol sales in stores were up 54% in late March compared to that time last year, while online sales were up nearly 500% in late April. According to a Morning Consult poll of 2,200 U.S. adults conducted in early April, 16% of all adults said they were drinking more during the pandemic, with higher rates among younger adults: One in 4 Millennials and nearly 1 in 5 Gen Xers said they had upped their alcohol intake.” American Heart Association News

<https://www.heart.org/en/news/2020/07/01/covid-19-pandemic-brings-new-concerns-about-excessive-drinking>

Anti-Anxiety Prescription Medications

Increased by 34%

Prescriptions for anti-anxiety medications increased 34.1%; for antidepressants, 18.6%; and for anti-insomnia drugs 14.8%, between mid-February and mid-March. The increase in anti-anxiety medication use was much higher for women (39.6%) than men (22.7%) during that time frame.

This study was from pharmacy benefit management company Express Scripts, that administers prescription drug benefits for millions of Americans through their employee benefit insurance. The report was based on a sampling of over 21 million people.

<https://www.express-scripts.com/corporate/americas-state-of-mind-report>

How Do These Prescription Medications Impact On Driving?

Some people are unaware that legal drugs including prescription drugs, can impair your ability to drive. Anxiety, some anti-depressants, sleeping pills can cause drowsiness, blurred vision, dizziness, lightheaded, slowed reaction time, poor balance, fainting, memory problems, and trouble concentrating. In addition, tolerance (needing more for the same affect) can take place in days, and it can take 3 or 4 weeks to become addicted to tranquilizers.

[https://www.fda.gov/consumers/consumer-updates/some-medicines-and-driving-dont-mix#:~:text=Medicines%20That%20Might%20Affect%20Driving,anxiety%20\(for%20example%2C%20benzodiazepines\)](https://www.fda.gov/consumers/consumer-updates/some-medicines-and-driving-dont-mix#:~:text=Medicines%20That%20Might%20Affect%20Driving,anxiety%20(for%20example%2C%20benzodiazepines))

<https://www.helpguide.org/articles/anxiety/anxiety-medication.htm>

<https://crownviewci.com/how-long-does-it-take-to-get-addicted-to-xanax-alprazolam/#:~:text=How%20Long%20Does%20it%20Take%20to%20Become%20Addicted%3F,arise%20in%20a%20few%20weeks>

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PRESIDENT'S LETTER

Getting Back in the Saddle



Dear RID Members,

First, I hope that you all are in a good place. With the Covid19 virus, it's hard to see light at the end of the tunnel when our future is uncertain. All we can do is support each other as best we can. This calamity has disrupted our lives, impacted our livelihood and isolated ourselves from our day-to-day routine.

In January 2020, RID was making great progress. That month, at the State Capital, we had a successful press conference, touting a bill to lower the BAC to .05 in New York State. The highlight was a riveting speech by Sandy La Plante who lost her leg and nearly her life to a drunken driver. Tom Louizou and I had productive meetings with Senators and Assemblyman from both sides of the isle. And I did several radio and TV interviews promoting the .05 bill in New York State. There was a newly founded momentum for a bill that was introduced in 2013. The outlook for 2020 looked to be quite promising.

In Late January came the first ominous warning of the virus that turned out to be far more devastating than anyone could imagine. The President issued a travel ban to China. State governors followed with shutdowns of certain businesses. The public was initially told the shutdowns would last three weeks with the goal of hospital resources weren't over taxed. Then a sudden spike in deaths at nursing homes happened in the state of Washington. Shortly after that another spike in deaths at nursing homes struck New York and New Jersey. It soon became quite apparent that this mysterious virus wasn't going to be resolved in a matter of weeks. There was no end in sight.

So all the progress made by RID on .05 in the past two years, came to a halt. Everything was shutdown, not only in New York, but every other state where .05 legislation was pending. I had to postpone the release of our spring newsletter. All the time invested in cultivating relationships at the Capital had been erased. I had to start from scratch.

This once in a lifetime pandemic makes getting back into the swing of things really hard. All the special interest groups are all in the same boat. So the competition for the time to meet with law makers has never been fiercer. Any issue that isn't directly related the Covid Virus is deemed irrelevant and gets pushed to the back of the line.

I remember how Doris Aiken never gave up whenever life's circumstances dealt her a blow. And many setbacks came her way. Since becoming president of RID, she has been my biggest inspiration. I may not have her formidable political skills and the issues related to drunken driving have changed over the years. However, the motto that you don't give up inspires me. Continuing her legacy as the person who ignited the nation's anti-DWI movement is an honor as well.

The challenge is to advocate for anti-drunken driving legislation at a time when the Covid19 virus is consuming all the oxygen in the room. There is a sentiment that the only issue our law makers can address is the virus and how to re-open our businesses and schools. It's harder than ever to get them to focus their attention on drunken driving. As the problem continues to wreak havoc, .05 is the most substantive legislation anywhere.

Maintaining a positive attitude during the pandemic is essential to get through this difficult period. That same optimism is necessary to move forward with .05. The most effective anti-DWI laws are ones that are proactive in deterring drunken driving. While tougher penalties after the crime has been committed help to serve justice, the data suggests that many drivers on the road believe they won't get caught.

So my argument for making .05 the law of the land remains the same. However, the pandemic has added a new wrinkle to the problem. It's created more drunken drivers on our roads. In this issue, Renee Barchitta writes about the increase in alcohol and prescription abuse. In the first three months of the shutdown, liquor stores and pot shops were deemed as essential businesses. This ruling resulted in an increase of 27% in alcohol sales (1). California, Oregon and Colorado all saw spikes in sales since the pandemic shutdown was announced. (2)

The challenge for RID is three fold; first, get the attention of law makers. Second, instill the idea that .05 is the vaccine for drunken driving. The lowering of DWI fatalities in Utah proves it. Third, get in front of the media to urge the public to call their representatives to support .05 legislation.

Putting these three facts together is simple, logical and most importantly persuasive. The hardest step is getting law makers to agree to meet with you. This requires networking and polite persistence. Doris Aiken gave me this blueprint for success. She would be quite pleased to see the progress that's been made on her signature issue. With your support, together we can make .05 happen, even amid this devastating pandemic.

I'll end by thanking Renee and Roger Barchitta for their excellent work on cash bail reform, and the Covid19 shutdown, along with a Texan shout out to Gilbert Adrade for his generosity to RID during these tough financial times.

God Bless You All!

William Aiken

1) *Miami Herald* June 11, 2020 <https://www.miamiherald.com/news/coronavirus/article243433136.html>

2) *Statistica* June 18, 2020 <https://www.statista.com/statistics/1105365/coronavirus-sales-surge-of-recreational-cannabis-by-day-us/>

WE HAVE TO PUSH BACK WHENEVER OUR LEADERS DOWNPLAY DWI

By William Aiken



Joe Biden: “I don’t count drunk driving as a felony”

One of many qualities that made Doris Aiken such an effective leader was her willingness to work across the aisle to get things done. She didn’t care what your party affiliation was; she cared whether you did the right thing.

As a lifelong Democrat, she worked with Republican New York State Senate Leader, Joe Bruno to pass many bills in New York State. With GOP U.S. Senator Al D’Amato, she forged a partnership that was instrumental in passing the law that lowered the BAC from .10 to .08 in all 50 states. Republican Assemblyman Jim Tedisco affectionately dubbed her a pit bull for her perseverance and grit. The title of her memoir, “My Life as a Pit Bull” was inspired by Tedisco.

But in the era of President Trump, it seems that every issue is divided along partisan lines. This trend is unfortunate because drunken driving has always been a moral issue, regardless which side of the aisle you stood on.

So while I acknowledge this reality of our current state of divisive politics, we must reject it. When an elected leader makes a statement that is dismissive or diminishes the severity of drunken driving, there must be consequences.

Former Vice President Joe Biden was on the campaign trail when he was asked by a reporter, “What exact changes would you bring to ICE as an agency?” He responded by saying he would fire an agent who tried to deport an undocumented immigrant that had not been charged with a felony.

“You change the culture by saying you are going to get fired”. Biden explained, “You are fired if, in fact, you do that. You only arrest for the purpose of dealing with a felony that’s committed, and I don’t count drunk driving as a felony,”(1)

In response to Biden’s comment, MADD said: “Drunk driving is the Number 1 killer on America’s roads and a violent crime that MADD believes should be punished to the fullest extent of the law, regardless of the offender’s immigration status. Drunken driving laws differ by state, and the fact that only four states charge a felony for a non-injury second drunk driving offense illustrates the enormous challenge MADD faces in helping to pass laws that will eliminate the horrible tragedies caused by drunk driving.

In all drunken driving cases, MADD supports the victims and their wishes in the prosecution and sentencing of offenders who kill or injure someone.”

In 2018 alone, the illegal immigrants ICE officers arrested totaled more than 80,000 DUI arrests or convictions among them. (2) The problem of illegal immigrants with DWIs is enormous. Its impact negatively affects thousands of families. Yet, this safety issue has been lost in the debate on immigration.

MADD deserves credit for denouncing such ignorance and denial of DWI crimes. Whenever someone in the public square makes a statement that is dismissive of the severity of drunken driving, there has to be pushback, regardless of the party they represent.

Drunken driving has never been a partisan issue. The enormous havoc it’s wreaked on the community has united both Democrats and Republicans to strongly condemn this behavior and pass life saving legislation. I work with both parties on the bill to lower the BAC to .05 in the New York State Capital. I can’t imagine any of them would make such an irresponsible statement as Biden did. If they had there would be a strong rebuke from both sides of the aisle.

A recent example of this bipartisanship occurred earlier this year when GOP New York State Assemblyman, Brian Kolb was charged with drunken driving. His arrest drew sharp criticism from his colleagues on both sides of the aisle. The pressure from his peers forced him to step down from his leadership role in the Assembly. Then he later announced he wouldn’t seek re-election.

It’s a huge issue when society becomes complacent to the tragedy of drunken driving. It’s a ubiquitous and ongoing problem for decades. Biden’s remarks, only further normalize this criminal conduct that destroys friends and family of those lost to drunken driving.

Biden never had to apologize to the victims of drunken driving as the media never asked him to. When the media normalizes comments that minimize drunken driving, it diminishes the hard work advocacy groups like RID and MADD have done for years. Our efforts to educate the public are difficult enough. In this instance, the media dropped the ball.

It is really frustrating that someone running for the highest office in the land can make such irresponsible statements and have the media ignore them. This story lasted for half a news cycle and received scant coverage. Drunken driving is a national health crisis and deserves to be treated as such.

After the election, whether he wins or loses, Biden’s callous take on drunken driving will be forgotten. Let this serve us as a reminder for us to speak out on the media’s lax attitude toward drunken driving. Lives are at stake if we don’t.

Footnotes:

1) *National Review* January 20, 2020

2) *Inside Sources*, January 22, 2020

A SOLUTION TO IMPROVE POLICING FROM THE DRIVER'S SIDE

By William S. Aiken Jr.



While I have no doubt that the readers of this newsletter have no problem complying with police if they are pulled over during a traffic stop, the issue of policing has been at the forefront of the public consciousness. Traffic stops by police is a topic that has been fiercely debated since the death of George Floyd. So I wanted to offer something positive that might lower the temperature and provide a potential solution. My aim is to give the driver a strategy that can improve relations between law enforcement and the African-American community. For RID members, I hope this proposal might spark a productive discussion.

So I share my proposal with our readers to put out these suggestions in the public consciousness. There have been massive protests the past few months. But I don't see solutions being put forth. The more specific proposals are, the more productive the conversation. I have sought the input of law enforcement and civil rights members in putting this proposal together. The problem of mistrust can't be solved without the participation of both groups. So let's have that conversation.

Many African-Americans have stated publicly how fearful they are of being pulled over by police. Courtesy, Compliance, Honesty or CCH offers some guidelines to follow during a traffic stop. It's also applicable to anyone who's behind the wheel. CCH is a safety strategy if someone is stopped by police.

If drivers conducted themselves properly, it could help to reduce the kind of incidents that divide the country. Research shows that resisting police is a major factor in violent encounters between the law enforcement and African-Americans. In nearly all of these tragic cases, resisting arrest marks the beginning to a bad outcome. The goal of CCH is help to prevent such an ending.

Courtesy Compliance Honesty

1# Courtesy: Recently, an African-American caller to a radio show explained how he successfully deals with police when he's been pulled over. He starts the interaction with "Hello Officer." The introduction disarms the officer.

The caller described the officer's demeanor as completely changing from tense to at ease.

The caller has been stopped multiple times by police. The worst outcome was the officer ended up writing him a ticket then sending him on his way. I would advise drivers to take courtesy a step further, using this opening statement. "Hello Officer, how can we stay safe today?"

2# Compliance: This step begins by buckling your seat belt. If you follow the direction of the officer, you'll avoid conflicts that can escalate into a dangerous situation. If you're pulled over, put your hands at 10 and 2 o'clock on the steering wheel as the cop approaches the vehicle and turn on the interior lights.

When he asks for the license and registration, ask permission if you can open the glove compartment to get it. I know some will have a problem with this step, but it's an important part of establishing trust with the officer. Also, sudden movements have produced tragic results.

If you believe the officer is treating you unfairly, get the officer's name and badge number. They are available resources to assist you with the process of filing a complaint. The time to act on this concern isn't during the stop, the appropriate time to address it is afterwards.

3# Honesty: If you lie during the encounter it is almost certain to come back to bite you. This point may seem obvious. Yet, if you're aware of how important it is to tell the truth, beforehand, you'll be less inclined to blurt out a lie out of nervousness or if you're feeling under pressure during the stop.

Respect is a two way street. Reciprocity is the most powerful form of persuasion. You get what you give or in most cases you get more.

The strategy is all about establishing a respectful tone that benefits both parties and helps to ensure a safe outcome. Remember the officer wants the same thing you want; to be able go to home to their family.

In conclusion, it's very difficult to change human behavior. Yet, you can effectively address it by deploying CCH as a strategy. Using CCH during police stops can be utilized by the driver immediately without having to protest, fight to pass legislation, or change police procedures.

The old adage it's not what happens to you, it's how you handle what happens to you, applies here. Adopting CCH as a guideline empowers the driver to have confidence and clarity resulting in a safe outcome.

NYS GOVERNOR CUOMO EXECUTIVE ORDER RESTAURANTS AND BARS: ALCOHOL TAKE OUT AND DELIVERY

By Renee Barchitta



To keep the public in New York State home and assist businesses impacted by the virus shut down, effective July 17, 2020, Governor Cuomo's Executive order 202.52 allows NYS restaurants and bars with on-premises alcohol licensees, to sell wine, beer, and liquor for takeout or delivery (to the person's home) with an order of food. Alcohol may be sold in any closed or any sealed original container of any size and labeled. Sales must meet municipal open container ordinance.

Senator Brad Hoylman, proposed new legislation Senate Bill S8392 "that would continue to allow bars and restaurants to offer wine, beer and cocktails for take-out and delivery for off-premises consumption for two years after the current State of Emergency ends."

The Senator since temporarily withdrew the bill due to: youth who were drinking outside of bars, not purchasing much food, in violation of NYC Open Container Law and not social distancing, and making noise. In addition, there "is no effective enforcement mechanism," for the large number of establishments.

Governor Cuomo had been extending this law on a monthly basis and is currently in effect until October 4th, 2020.

<https://thevillagesun.com/senator-hoylman-c-b-2-agree-extending-to-go-booze-for-two-years-too-risky-now>

<https://ny.eater.com/2020/3/17/21182052/new-york-state-liquor-authority-restaurant-laws-coronavirus>

<https://sla.ny.gov/Restrictions-in-Response-to-COVID-19>

<https://www.governor.ny.gov/news/no-20252-continuing-temporary-suspension-and-modification-lawsrelatingdisasteremergency#:~:text=No..202.52%3A%20Continuing%20Temporary%20Suspension%20and%20Modification%20of,Relating%20to%20the%20Disaster%20Emergency&text=WHEREAS%2C%20it%20is%20incumbent%20upon,THEREFORE%2C%20I%20C%20An-drew%20M>



How Does Take Out and Delivery Effect Intoxicated & Impaired Driving?

When an individual drinks alcohol in a restaurant or bar they are carded, to make sure they are of legal age, and observed to make sure they are not impaired to drive. Takeout and delivery makes it more difficult to ensure that drinkers are of legal age and are not impaired. Alcohol can be placed in containers that are easily opened, making it easier to share alcohol and drink and drive.

The National Institute on Alcohol Abuse and Alcoholism stated "Each year, about 88,000 people die from alcohol-related causes making alcohol the third leading preventable cause of death in the United States, Impaired -driving deaths are about a third of all motor vehicle fatalities."

<https://www.niaaa.nih.gov/publications/brochures-and-fact-sheets/alcohol-facts-and-statistics>

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THE ESSENTIAL REASONS FOR BAIL

By Roger Barchitta

New York State's new bail reform law, since its enactment in January 2020 is proving to be a metastasizing carnival of criminal horrors visited upon the residents of the state. The prime directive of a government is to protect its citizens. The criminal justice system is the governmental structure delegated to execute the law as defined and limited by the Constitution. Bail is temporary release of an accused person awaiting trial, sometimes on condition that a sum of money be lodged to guarantee appearance in court. Before Bail reform was enacted the accused had to meet the following threshold requirements for judicial granting of bail: Is the accused

1. A flight risk?
2. Being accused of a serious crime?
3. A U.S. citizen?
4. A serious threat to the public?
5. Repeat offender, or on parole or probation at the time of the alleged crime?

Impaired Driving

The severity of the current offense in addition to the accused being a repeat offender are all primary factors foundational to any view that the accused will be a threat to the public. DWI DUI, DWAI is a serious offense especially when fatalities and bodily injuries are factored into the judicial bail review calculus. Any accused DWI offender who is currently released under the new bail reform guidelines or and subsequently commits another offense against the public, will be another tragic example of government abdication of its duty as directed by the people.

Roger Barchitta, CASAC, MPA

Roger was a former New York State Probation Officer, and a Community Corrections Representative with the New York State Division of Probation and Correctional Alternatives (Ret.)

SURVIVOR'S STORY

By Sandy LaPlante

A Selfish Act That Can't be Taken Back



Buck Golas and Sandy LaPlante

June 22, 2014 will be the day that changed our life forever. It was a beautiful sunny day. Buck and I went for a ride on our Harley Davidson Motorcycle. We rode through the hill towns, starting in Westerlo in Upstate New York. Then we stopped in Middleburgh to have lunch, proceeded and stopped at a flea market.

Afterwards, we rode down route 145 and stopped at the Black Thorne Resort in East Durham, NY to visit our friend's campsites. We visited until it was starting to turn to dusk as Buck prefers to not ride after dark. We stopped at the local grocery store in Greenville, NY. I got off the bike and threw my sunglasses in the tour pack which is located at back of the bike. We purchased a few groceries; I put them in the tour pack and grabbed a jacket. On our way back home, we continued on Route 32 towards north.

Suddenly, I realized I did not have my sunglasses on, so I tapped Buck on the shoulder to see if he would pull over. He said "we are not pulling over on 32, its too dangerous, we are almost home, just put your head on my back, so nothing gets in your eyes." Unbeknownst to us, it was a blessing that I did not see what was about to happen.

Minutes later without warning, Robert Dunn was under the influence (BAC. 19), crossed the yellow line and hit Buck and I. I was violently thrown head first into a ditch on Route 32. During the crash, I sustained a fractured elbow, cuts, scrapes to my face but

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the brunt of my injuries was my left leg was literally ripped off and was held by a little bit of skin. The EMT noticed that I was panicking and said "Sandy its ok, it's just broke". At that moment not really comprehending it all, I really thought my leg was broken and calmness came over me.

My daughter Kelly was notified and she showed up and kept saying "Mom, you are going to be OK". I started having a very bad feeling, my mouth got very dry and I started to panic. The EMTs moved me, there was so much blood gushing out from my body. I remember saying "I think I'm going to die." Shortly after, I recall hearing the sound of a helicopter engine and the EMT saying twice "pull her out we are losing her". Months later, the EMT shared with me the events after the crash. The EMT told me that I died three times during the transfer to the hospital and they resuscitated me.

I was in a coma in ICU at Albany Medical Center for three days. I woke up to my two beautiful daughters, Kerry and Kelly. Their facial expressions were extremely sad, and I could not understand why. At that moment I only remember the EMT telling me that my leg was broken. Unfortunately, my girls began to cry and they informed me that the doctors had no choice but to amputate my left leg. This was the worst feeling as a parent and to watch my daughters so upset and they were the bearer of bad news. I would not have been able to make it through this nightmare without my girls; they have and still are there for me always.

At the time of the crash site, I clearly remember looking on the side of the road and recognizing the man who was sitting and smoking a cigarette. I remember and I became very agitated and angry because it was Robert Dunn who hit us.

Robert Dunn is my stepsister's husband's nephew. I've known Robert Dunn since he was 16 years old, and he was involved in partying and engaging in drugs and alcohol. Prior to June 22, 2014, Robert Dunn was already a second time repeat offender and served no time. Robert Dunn and I did not have a close relationship, but I can recall over the years that we had attended family functions. Since the crash, the careless actions of Robert Dunn resulted in not only the loss of my leg but the loss of my inner happiness, my independence, freedom and this has caused me physical and emotional pain that has not subsided. The relationship between my stepsister and I changed dramatically. We grew up together and shared many wonderful memories.

Since the crash, it has been awkward, uncomfortable at family gatherings to be around one another. Neither of us knows what to say to one another and this has caused us to be distant from one another. Robert Dunn's irresponsible choice created a magnitude of heartache for Buck and me. Robert Dunn pleaded to aggravated vehicular assault before Albany County Judge Peter Lynch and was sentenced to 2 1/3 years to 7 years and is still currently incarcerated.

After the crash, Buck and I have been greatly supported by our family, friends and our community. Everything in my life has become a hardship especially now that I am unable to work and have many doctor appointments.

Six years have passed, I still have many obstacles to overcome along with the constant pain and suffering. I am alive but most days are

filled with tears and anger rather than smiles and laughter.

For quite some time, I have been unable to fit in a prosthetic which has been frustrating as it prohibits me to play with my granddaughters or do the things that I once enjoyed. The uncontrollable phantom pain is excruciating and feels like razor blades constantly shredding my leg from the minute I wake up until the time I go to sleep at night. Most nights I cannot sleep due to the pain, the flashbacks, PTSD and the depression.

What keeps me going every day is my kids, grandkids and discovering that my purpose in this tragedy is to encourage others to be responsible. One of my first times speaking was with First Sergeant, Tracy Mance from Albany Stop DWI. She has been incredibly supportive and has become a very close friend. She provided many opportunities for me and other victims to speak at Choices and at victim impact panels.

In addition, I have also volunteered at several area organizations such as the Rensselaer and Columbia County Stop DWI, RID and the Governor's Traffic Safety. I hope that when I speak, that someone in the audience will remember me and will not make the same irresponsible choices as Robert Dunn. That one time, that one minute, you get behind the wheel impaired, that choice can dramatically impact many people lives.

For the last four years, Victims Services, Sharon Hoy-Tallman from MADD provided an abundance of services to Buck and me. She continues to be there for us while we continue to endure this LIFE SENTENCE. With the assistance of Sharon, we were able to ensure that three time offender, Robert Dunn, was denied parole 4 times and that he remains incarcerated till September, 2020.

Throughout this ordeal, I have always been trying to establish a new norm. I can't imagine life without my family, Buck, my daughters, Kerry and Kelly, my granddaughters, Teagan and Bailey, Sharon from MADD and Tracy Mance from Stop DWI. I want to give a special thank you to William Aiken of RID in asking me to share my story for this newsletter.



CASH BAIL REFORM HAS BEEN A DISASTER FOR NEW YORK

By Renee Barchitta



Bail Reform

In addition to the lockdown, two other issues are impacting impaired driving. Effective January 1, 2020, New York State instituted a bail reform law, in which "New York's bail reform requires most defendants to be released during the pretrial period, eliminating both money bail and pretrial detention in nearly all misdemeanors and nonviolent felonies. Instead of being held on bail, these individuals are issued appearance tickets. Aggravated Vehicular Assault, Vehicular Manslaughter in the first degree, and second degree are considered non-violent felonies.

Due to New York's bail reform, estimates are that the new law will keep about 90 percent of defendants out of jail at least until their case gets resolved. The Bail reform "eliminates cash bail for most defendants to ensure an individual's wealth is no longer the determining factor for pre-trial detention while awaiting their day in court." In the past, courts allowed fines or fees to be paid over time through payment plans.

https://www.courtinnovation.org/sites/default/files/media/document/2019/Bail_Reform_NY_full_0.pdf

<http://yonkerstimes.com/bail-reform-under-fire-already/>

Fines Not Collected

Secondly, if fines are not collected from the convicted impaired driving offender, their license can no longer be suspended. Concerns about fine collection include the loss of deterrence for those who would multiple offend. In addition, the New York State STOP-DWI Programs are totally funded by convicted impaired drivers. This program takes fines from those who cause the problems to help solve the problem of impaired driving. When these fines are not available, it will be more difficult to fund arrests, prosecution and education. Courts used to have discretion and allowed an individual to pay their fine or fees over time through payment plans.

Drivers Released Without Bail After Fatal Crashes

A central New York man is being called the first victim of criminal justice reform. Mark Knapp, 59, was killed on his small tractor by Heriberto R. Perez-Velasquez, a drunk driver. The driver, an undocumented immigrant, was arrested three weeks earlier for DWI, Aggravated DWI with a blood alcohol level of .22%.

He was also charged with Resisting Arrest after he attempted to run as handcuffs were being administered. He was subsequently charged with Vehicular Manslaughter in the 2nd Degree, a Felony; Driving While Intoxicated, a Misdemeanor; Leaving the Scene of a Personal Injury Accident, a Misdemeanor; Fail to Use Designated Lane, an Infraction. He was not held on bail because of New York States bail reform and he was released on appearance tickets.

<https://waynetimes.com/columns/governor-cuomo-mark-a-knapp-is-dead-because-of-you/>

Rosie Osai, a pedestrian from Stony Point in Rockland County was killed on Christmas Eve by a hit-and-run driver. The driver, Jorge Flores-Villabla, an undocumented immigrant, was charged with leaving the scene of a fatal crash, a felony and driving without a license, but was released without bail because of the new bail reforms.

<https://newyork.cbslocal.com/2019/12/26/arrest-made-in-christmas-eve-hit-and-run-that-killed-35-year-old-woman/>

Jordan Randolph, 40, was charged with Felony DWI, nearly three times the legal limit, after a fatal crash that killed Jonathan Flores-Maldonado, in Long Island. Jonathan had graduated from Buffalo State College with biology degree in May 2019. The intoxicated driver was already on probation for a DWI conviction, attempted to flee the scene on foot but fell to the ground and was arrested on a 24-count indictment.

He is charged with seven counts of aggravated vehicular homicide; second-degree manslaughter; two counts of second-degree vehicular manslaughter, and 14 other charges. He has 12 previous criminal convictions, including three DWIs since 2011. He was also arrested on New York's Day for not having a court-ordered interlock ignition device in his vehicle and was later released. The judge released Randolph under New York bail reform laws.

<https://www.newsday.com/long-island/crime/bail-reform-dwi-randolph-1.41241123>

<https://www.wivb.com/news/top-stories/family-upset-after-suspect-in-dwi-crash-that-killed-buffalo-state-grad-walks-free-following-arraignment/>

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The Need For Amending Bail Reform

District attorneys, judges, legislators, law enforcement officials, advocates, and Victims/Survivors, concerned about the dangers imposed by New York State's bail reform worked to amend the reform. Below find the amendments made to New York's bail reform that applies to impaired driving and unlicensed operation of a vehicle. Bail reform went into effect on July 2, 2020.

Amended Bail Qualifying Impaired Driving Related Offenses

1. aggravated vehicular assault (felony) <https://www.nysenate.gov/legislation/laws/PEN/120.04A>
2. Any felony offense committed while serving a sentence of probation or while released to post-release supervision
3. Any felony committed by a "persistent felony offender"
4. Any felony or class A misdemeanor involving harm to an identifiable person or property committed while charges are pending on another felony or class A misdemeanor involving harm to an identifiable person or property

Data Collection Required

"The revised law also requires court administrators to collect and publicly report data regarding people charged with crimes and what happens during the pretrial phase of each case. This data includes demographic and criminal history information, as well as details regarding the charged crimes."

"...Also required is the tracking of how many people are released and under what conditions, how many are committed to pretrial custody and for how long, the rate at which people fail to appear or are rearrested, the length of any period of pretrial incarceration, and case outcomes."

"...If the data collection and reporting requirement is implemented rigorously, this information could show whether the bail law is working as intended."

<https://www.brennancenter.org/our-work/analysis-opinion/new-yorks-latest-bail-law-changes-explained>

WHAT YOU CAN DO TO ADDRESS ISSUES REGARDING IMPAIRED DRIVING

- Keep Informed On Issues and New Legislation
- Contact your Elected Officials Regarding Important Issues and Concerns
- Attend Or Have Local RID Meetings or on Zoom
- Write Letters To The Editor
- Contact Your Local Media For Coverage Of An Event Or Concern, Special Days and Holidays
- Use Social Media
- Court Watching (Post Covid19)

To access the above links, go to our website, www.rid-usa.org and click on the RID 2020 fall newsletter.

Renee' Barchitta, MPA is a former Delaware County STOP-DWI Coordinator and a retired Representative for The New York State's Governor's Traffic Safety Committee and a RID member for forty years.

What are the issues related to drunken driving in your community?

If you're interested in submitting an article for the newsletter, or have a comment or suggestion, RID is happy to provide this platform to voice your concerns.

William Aiken, President
ridusa@verizon.net
or call (518) 372-0034



A CITIZEN'S PROJECT TO REMOVE INTOXICATED DRIVERS

P.O. Box 520, Schenectady, New York 12301

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RIDley to the Rescue



RID

Victim's Hotline
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888-283-5144
ridusa@verizon.net



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